

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

On September 16, 2013, petitioner filed this petition for a writ of error coram nobis. Petitioner, who has served his sentence and is currently residing in Medford, Oregon, challenges his 1978 conviction in the California Superior Court. [Petition at 1-10].

1 if the sentence imposed for the challenged conviction has fully
2 expired at the time the habeas petition is filed. Maleng v. Cook, 490
3 U.S. 488, 492 (1989) (per curiam). Further, once the petitioner is
4 unconditionally released, the collateral consequences of the
5 conviction are not sufficient to render the petitioner in custody for
6 the purposes of a habeas petition. Maleng, 490 U.S. at 492.

7 Because petitioner is no longer in custody based upon the 1978
8 conviction, he cannot challenge that conviction in a habeas petition
9 pursuant to section 2254. [See Petition, Ex. G]. Petitioner seeks to
10 circumvent the custody requirement by styling his challenge as a
11 petition under 28 U.S.C. §1651 (the "All Writs Act"). This he may not
12 do.

13 "Coram nobis relief is not available in federal court to attack
14 a state court conviction." Casas-Castrillon v. Warden San Diego,
15 Correctional Facility, 265 Fed. App'x. 639, 639 (9th Cir. 2008); see
16 also Williams v. Waggener, 271 Fed. App'x. 603, 604 (9th Cir. 2008)
17 (affirming a district court's ruling that it lacked the authority to
18 issue a writ of error coram nobis with respect to a state court
19 conviction); Finkelstein v. Spitzer, 455 F.3d 131, 134 (2nd Cir. 2006)
20 (per curiam)("district courts lack jurisdiction to issue writs of
21 coram nobis to set aside judgments of state courts"), cert. denied,
22 549 U.S. 1169 (2007); Obado v. New Jersey, 328 F.3d 716, 718 (3rd Cir.
23 2003) (same); Lowery v. McCaughtry, 954 F.2d 422, 423 (7th Cir. 1992)
24 (same); Martinez v. Lockyer, 453 F.Supp.2d 1150, 1152 (C.D.Cal. 2006)
25 (same).

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2 Accordingly, the petition for a writ of coram nobis is dismissed
3 for lack of jurisdiction.
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5 Dated: October 31, 2013
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A handwritten signature in black ink, appearing to be 'JGB', with a long horizontal flourish extending to the right.

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8 Jesus G. Bernal
9 United States District Judge
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